

RMM LAW COLLEGE SAHARSA

CODE OF CRIMINAL PROCEDURE

IIIrd Part

Paper -3

TOPIC- CHAPTER XVIII -TRIAL BEFORE A COURT OF SESSION

Lecture Notes by- **BINOD KUMAR JHA**

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Section 225

Trial to be conducted by Public Prosecutor- In every trial before a Court of Session, the prosecution shall be conducted by a Public Prosecutor.

Section- 226. Opening case for prosecution –

When the accused appears or is brought before the Court in pursuance of a commitment of the case under section 209, the prosecutor shall open his case by describing the charge brought against the accused and stating by what evidence he proposes to prove the guilt of the accused

227. Discharge –

If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing

West Bengal:

In clause (a) of sub-section (1) of section 228, for the words "to the Chief Judicial Magistrate" and thereupon the Chief Judicial Magistrate" the words "to the Chief Judicial Magistrate or to any Judicial Magistrate competent to try the case, and thereupon the Chief Judicial Magistrate or such other Judicial Magistrate to whom the case may have been transferred" shall be substituted [Vide WB Act 63 of 1978 (wef 1-6-1979)]

Comments

(i) The responsibility of framing the charge is that of the Court and it has to judicially consider the question of doing so Without full advertent to the material on the record it must not blindly adopt the decision of the prosecution; Sunil Kumar Jha alias Bittu Jha v State of Bihar, (1997) 2 Crimes 131 (Pat)

(ii) The materials, other than those produced by the prosecution, can also be looked into and should be considered at the time of framing of charge, to find out whether a prima facie case against the accused is made out or not; Madho Singh v State of Rajasthan, (1997) 2 Crimes 358 (Raj)

229. Conviction on plea of guilty –

If the accused pleads guilty, the Judge shall record the plea and may, in his discretion, convict him thereon.

230. Date for prosecution evidence -

If the accused refuses to plead, or does not plead, or claims to be tried or is not convicted under section 229, the Judge shall fix a date for the examination of witnesses, and may, on the application of the prosecution, issue any process for compelling the attendance of any witness or the production of any document or other thing.

231. Evidence for prosecution -

(1) On the date so fixed, the Judge shall proceed to take all such evidence as may be produced in support of the prosecution.

(2) The Judge may, in his discretion, permit the cross-examination of any witness to be deferred until any other witness or witnesses have been examined or recall any witness for further cross-examination.

